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STEVEN MURRAY, and CHRISTOPHER PAISLEY

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

BRIAN H. ROBB, Individually and an Behalf of
All Others Similarly Situated,

Plaintiffs,

v.

FITBIT INC., JAMES PARK, WILLIAM R.
ZERELLA, ERIC N. FRIEDMAN,
JONATHAN D. CALLAGHAN, STEVEN
MURRAY, CHRISTOPHER PAISLEY,
MORGAN STANLEY & CO., LLC,
DEUTSCHE BANK SECURITIES INC., and
MERRILL LYNCH, PIERCE, FENNER &
SMITH, INC.,

Defendants.

Case No. 3:16-CV-00151-SI

CLASS ACTION

**STIPULATION AND
[PROPOSED] SCHEDULING
ORDER**

1 Pursuant to Civil Local Rule 7-12, Defendants Fitbit Inc., James Park, William R. Zerella
2 (the “Original Defendants”), Eric N. Friedman, Jonathan D. Callaghan, Steven Murray, and
3 Christopher Paisley (together with the Original Defendants, the “Fitbit Defendants”), Morgan
4 Stanley & Co. LLC, Deutsche Bank Securities Inc., and Merrill Lynch, Pierce, Fenner & Smith
5 Incorporated (the “Underwriter Defendants” and together with the Fitbit Defendants,
6 “Defendants”) and Lead Plaintiff the Fitbit Investor Group (“Lead Plaintiff” and together, with
7 Defendants, the “Parties”), by and through their undersigned counsel of record, submit the
8 following stipulation and proposed scheduling order:

9 WHEREAS, the Court scheduled a Case Management Conference (“CMC”) in this Action
10 for April 15, 2016 at 2:30 p.m. (Dkt. No. 5);

11 WHEREAS, on April 11, 2016, the Court entered an order approving the Original
12 Defendants’ and Plaintiff Brian H. Robb’s (“Plaintiff”) joint stipulation extending Defendants’
13 time to respond to the complaint, which provided that “Within 10 (ten) days after this Court
14 appoints a Lead Plaintiff, the Lead Plaintiff and Defendants will submit to the Court a proposed
15 schedule for (1) Lead Plaintiff’s filing of an Amended Complaint or designation of the Complaint
16 as the operative complaint in this action; and (2) Defendants’ time to answer or otherwise respond
17 to the operative complaint.” (Dkt. No. 54);

18 WHEREAS, on April 12, 2016, the Original Defendants and Plaintiff submitted a joint
19 stipulation requesting that the April 15, 2016 CMC be rescheduled to June 3, 2016, at 2:30 p.m.,
20 or a subsequent date convenient for the Court (Dkt. No. 56);

21 WHEREAS, on April 14, 2016, the Court entered an order approving the April 12, 2016
22 stipulation and rescheduled the CMC to June 10, 2016, at 2:30 p.m. (Dkt. No. 57);

23 WHEREAS, on April 15, 2016, the Court held a hearing on motions to appoint lead
24 plaintiff and lead counsel (Dkt. No. 60);

25 WHEREAS, on April 19, 2016, the Court advanced the CMC scheduled for June 10, 2016
26 to June 9, 2016, at 2:30 p.m. (Dkt. No. 63);

1 WHEREAS, on May 10, 2016, the Court issued a written order granting the Fitbit
2 Investor Group's motion for appointment of lead plaintiff and granting its motion for appointment
3 of Pomerantz LLP and Glancy Prongay & Murray LLP as co-lead counsel (Dkt No. 73);

4 WHEREAS, on June 1, 2016, the Court issued an order approving the Original
5 Defendants' and Plaintiff's Stipulation and Scheduling Order setting the deadline for Lead
6 Plaintiff to file an amended complaint on July 1, 2016, setting the deadline for Defendants to file
7 a motion to dismiss the amended complaint on or before July 29, 2016, and rescheduling the
8 CMC to October 14, 2016 (Dkt. No. 79);

9 WHEREAS, on July 1, 2016, Lead Plaintiff filed an Amended Complaint For Violations
10 of the Federal Securities Laws (the "Amended Complaint") (Dkt. No. 89);

11 WHEREAS, on July 29, 2016, the Fitbit Defendants filed a motion to dismiss the
12 Amended Complaint (Dkt. No. 107) and noticed the motion for hearing on September 30, 2016 at
13 9:00 a.m.;

14 WHEREAS, pursuant to stipulation (Dkt. No. 106), on August 5, 2016, the Underwriter
15 Defendants filed a motion to dismiss the Amended Complaint (Dkt. No. 110);

16 WHEREAS, on August 25, 2016, the Court issued an order approving the Parties'
17 Stipulation and Scheduling Order setting the deadline for Lead Plaintiff to file an opposition to
18 Defendants' motions to dismiss on or before August 26, 2016, setting the deadline for Defendants
19 to file reply briefs in support of their motions to dismiss on or before September 16, 2016, and
20 rescheduling the CMC to December 9, 2016 (Dkt. No. 114);

21 WHEREAS, on August 26, 2016, Lead Plaintiff filed its Omnibus Opposition to
22 Defendants' Motions to Dismiss (Dkt. No. 115);

23 WHEREAS, counsel for Lead Plaintiff has a scheduling conflict on September 30, 2016
24 and requested that the Parties agree to reset the hearing on Defendants' motions to dismiss;

25 WHEREAS, the Parties have met and conferred regarding resetting the hearing on
26 Defendants' motions to dismiss and the deadline for Defendants' replies;

27 NOW, THEREFORE, IT IS HEREBY STIPULATED AND AGREED by and between
28 the undersigned Parties that:

1 1. Defendants shall file their replies in support of their motions to dismiss the
2 Amended Complaint on or before September 23, 2016; and

3 2. The hearing on Defendants' motions to dismiss shall be reset to October 28, 2016
4 at 9:00 a.m.
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1 Dated: September 15, 2016

POMERANTZ LLP

/s/Murielle J. Steven Walsh

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Co-Lead Counsel for Plaintiffs

18 Dated: September 15, 2016

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Eric N. Friedman, Jonathan D. Callaghan
Steven Murray and Christopher Paisley

1 Dated: September 15, 2016

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2 /s/ Jonathan Rosenberg

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10 *Counsel for Defendants Morgan Stanley &*
11 *Co. LLC, Deutsche Bank Securities Inc., and*
12 *Merrill Lynch, Pierce, Fenner & Smith*
13 *Incorporated*

ORDER

1
2 1. Defendants shall file their replies in support of their motions to dismiss the
3 Amended Complaint on or before September 23, 2016; and

4 2. The hearing on Defendants' motions to dismiss shall be reset to October 28, 2016
5 at 9:00 a.m.

6
7 DATED: 9/15/16



The Honorable Susan Illston
United States District Judge

ATTESTATION

I, Ryan M. Keats, am the ECF User whose ID and password are being used to file this
STIPULATION AND [PROPOSED] SCHEDULING ORDER. In compliance with Civil L.R.
5-1, I hereby attest that Murielle J. Steven Walsh and Jonathan Rosenberg concurred in this filing.

/s/ Ryan M. Keats